DOCKET
09-AFC-9
DATE SEP 16 2011
RECD. SEP 16 2011

STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:

Application for Certification for the (Solar Millennium) Ridgecrest solar power project

Docket No. 09-AFC-9

SIERRA CLUB RESPONSE TO COMMISSION ORDER WITHDRAWING APPLICANT'S MOTION REGARDING JURISDICTION WAIVER

September 16, 2011

Travis Ritchie
Sierra Club
85 Second Street, Second floor
San Francisco, CA 94105
(415) 977-5727 Voice
(415) 977-5739 Facsimile
travis.ritchie@sierraclub.org

STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of: Application for Certification for the (Solar Millennium) Ridgecrest solar power project	Docket No. 09-AFC-9

SIERRA CLUB RESPONSE TO COMMISSION ORDER WITHDRAWING APPLICANT'S MOTION REGARDING JURISDICTION WAIVER

Sierra Club hereby responds to the California Energy Commission's ("Commission") August 24, 2011 *Commission Order Withdrawing Applicant's Motion Regarding Jurisdictional Waiver and Scheduling Order* in the above-captioned proceeding, Order No. 11-0824-8 ("Order"). Sierra Club is not a party to this proceeding but rather responds to the Order's invitation for all interested entities and members of the public to provide input. The matter involves an argument by the Ridgecrest Solar Project Applicant ("Applicant") regarding the purported ability of any photovoltaic ("PV") project to "opt-in" to the Commission's powerplant siting jurisdiction.

Sierra Club submitted a letter to the Commission on August 11, 2011 explaining that the Commission must deny the Applicant's request because the Commission does not have the statutory authority to allow a developer to request jurisdictional authority where none exists. That letter is attached hereto as Exhibit A.

I. SUMMARY OF PRIOR ARGUMENT

The Commission's Order stated that it would take into consideration the written briefs and letters regarding Applicant's motion, and the Commission further requested that parties and interested members of the public refrain from repeating duplicative arguments in this briefing. Sierra Club therefore does not repeat the arguments of its August 11, 2011 letter here, but rather summarizes and incorporates those arguments by reference. Sierra Club takes this opportunity to address the legislative history of the relevant statutory provisions that further support Sierra Club's position that the Commission does not have the discretion to allow the Applicant to "opt-in" to its certified regulatory program.

Sierra Club's August 11, 2011 letter asserted the following points:

- The Commission has no legal authority to consider a project outside of its jurisdictional authority.
- The practical impact of granting the opt-in request would be to allow any renewable energy developer the option of avoiding permitting by regional and local agencies, including all local government land use authorities.

As discussed in more detail below, the legislative history of the Warren-Alquist Act does not change these two fundamental conclusions. To the contrary, the legislative history indicates that a PV project does not and cannot fall within the Commission's site certification jurisdiction.

II. ANALYSIS OF LEGISLATIVE HISTORY

Sierra Club's August 11, 2011 letter articulated the point that the plain language of the Warren-Alquist Act does not allow the Commission to consider a PV project because it is not a thermal powerplant. (Pub. Resources Code § 25120.) Nothing more is needed for the Commission to reject the Applicant's motion because the plain meaning of the statute is clear. "When interpreting statutes, we begin with the plain, commonsense meaning of the language used by the Legislature. If the language is unambiguous, the plain meaning controls." (*Voices of the Wetlands v. SWRCB* (2011) 52 Cal. 4th 499, 519 (internal citations omitted).)

Section 25120, as amended, states, "'Thermal powerplant' does not include any wind, hydroelectric, or solar photovoltaic electrical generating facility." Despite this clear statutory language, the Applicant argued that the Commission should now ignore th this language, added by a 1988 amendment to Section 25120 (the "1988 Amendment"), because "the 1988 Amendment had a singular purpose – to assure renewable energy developers that they were not subject to [sic] Commission's mandatory and exclusive jurisdiction."[1] The Applicant's summary of the 1988 Amendment, enacted by Senate Bill (SB) 928, is incomplete and inaccurate. The Applicant infers that the Legislature intended to apply SB 928 merely to the Commission's "mandatory" siting jurisdiction as opposed to its purported "voluntary" siting jurisdiction.[2] However, this distinction is entirely absent from both the plain language of the 1988 Amendment and from the legislative history of SB 928. Indeed, the legislative history indicates that SB 928 was **specifically** drafted to address concerns that the Commission might want to expand its power.

> There has been concern that the Commission wants to expand its jurisdiction…I feel that a clarification of existing law will help send a

[1] *Additional Brief in Support of Motion for Order Affirming Application for Jurisdictional Waiver*, Docket. No. 09-AFC-9, July 6, 2011, p. 7.

[2] *Id.*

> signal that more regulation over renewable energy development is not needed.[3]

The legislative history reveals an unambiguous concern that the Legislature feared the Commission would seek to expand its jurisdiction over non-thermal powerplants. The 1988 Amendment was designed to preempt any attempt by the Commission to expand its siting jurisdiction to non-thermal powerplants such as a PV project. The Commission must strictly adhere to the limits of its jurisdictional authority. (*See, e.g.,* 61 Ops.Cal.Atty.Gen. 127 (1978) ("The Energy Commission's authority, **within its sphere of jurisdiction**, which is the certification of sites and related facilities for **thermal powerplants**, should be broadly interpreted…This does not mean that under the guise, of liberal statutory construction the Energy Commission's certification jurisdiction can be enlarged to include matter outside of this legislatively circumscribed sphere" (emphasis added).)

Nothing in the history of the Warren-Alquist Act indicates that non-thermal powerplants have the option to elect to undergo Commission review. The 1988 Amendment, the legislative history for SB 928, and the legislative history for the original bill (AB 1575) enacting the Warren-Alquist Act in 1974 all fail to mention anything about a voluntary "opt-in" for non-thermal powerplants. The Applicant's entire argument rests on the premise that Section 25502.3 includes some alternate definition of "excluded facility" that neither the Legislature's analysis, the Commission's thirty-plus years of regulation, nor any previous applicant realized existed.

The Applicant contends that an unwritten "Fifth Class" of excluded projects constitutes the intended target of Section 25502.3.[4] This argument has no support. Even the Applicant's purported support from the 1974 Legislative Counsel Opinion contradicts its own conclusions. The Applicant sites the following language:

> "Facility" would include any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto (Secs. 25110, 25120) . . . . Also, there would be certain designated sites and facilities which would be excluded from the power facility and site certification provisions (Secs. 25501, 25501.3, 25501.5), and there would be an authorization for the commission to exempt certain thermal powerplants from such provisions (25541). As to an excluded or exempted site and facility or thermal powerplant, the authority of local governments would not be superseded, unless the person proposing to construct it waives the exclusion or exemption. (see Secs. 25501.7, 25502.3, 25542).[5]

---

[3] Statement on SB 928 before the Senate Committee on Energy and Public Utilities – May 5, 1987. Attached hereto as Exhibit B.

[4] *Additional Brief in Support of Motion for Order Affirming Application for Jurisdictional Waiver*, Docket. No. 09-AFC-9, July 6, 2011, p. 3.

[5] *Id.* (citing a Letter to Hon. Raymond Gonzales by the State of California Office of Legislative Counsel, May 13, 2974.)

The Applicant's flawed analysis is evident by reading this language. As a preliminary matter, the Legislative Counsel Opinion reiterates the point that the term "Facility" includes a facility **using any source of thermal energy**. There is no indication that Section 25502.3's use of the term "facility excluded" uses an alternate definition of facility that somehow includes non-thermal powerplants. The Legislative Counsel then describes three provisions that exclude certain facilities (Secs. 25501, 25501.3, 25501.5), and one section that allows the Commission to exempt certain facilities (Sec. 25541). The Legislative Counsel summarizes that the Warren-Alquist Act provides several provisions, including Section 25502.3, that pertain to these four types of excluded or exempted facilities and offer a waiver of the exclusion or exemption. There is no mention of a "Fifth Class" of excluded facilities. There is no indication whatsoever that an option exists for any non-thermal electrical generation plant to request review by the Commission. The Commission should disregard the Applicant's attempt to fabricate such a provision.

III. CONCLUSION

For the foregoing reasons, Sierra Club respectfully requests that the Commission deny the Applicant's motion for a jurisdictional waiver.

Dated: September 16, 2011

Respectfully submitted,

/s/ Travis Ritchie

Travis Ritchie
Sierra Club
85 Second Street, Second floor
San Francisco, CA 94105
(415) 977-5727 Voice
(415) 977-5739 Facsimile
travis.ritchie@sierraclub.org

Exhibit A

SIERRA CLUB
FOUNDED 1892

August 11, 2011

Chairman Robert Weisenmiller
Commissioner James Boyd
Commissioner Karen Douglas
Commissioner Karla Peterman
California Energy Commission
1516 Ninth Street, MS-2000
Sacramento, CA 95814

RE: Ridgecrest Solar Project's Request to Opt-in to Energy Commission Jurisdiction

Dear Commissioners:

Sierra Club wishes to comment on issues raised by the recent order of July 28, 2011 by Commissioner Boyd's committee (the "Committee") in the proceeding to consider the siting application for the Ridgecrest Solar Power Project (Docket No. 09-AFC-9). In responding to a motion from the Ridgecrest project developer, the Committee considered whether a developer of a non-thermal powerplant can "opt-in" to the Energy Commission's exclusive powerplant siting authority by invoking Public Resources Code Section 25502.3, which is an obscure and rarely used provision of the Warren-Alquist Act. Sierra Club strongly objects to this request on the grounds that the jurisdictional authority of the Energy Commission does not extend to non-thermal powerplants.

The Ridgecrest solar power project was originally proposed as a 100% solar thermal facility that clearly fell within the Commission's siting authority. Problems with the proposed project and significant impacts on the threatened Mohave ground squirrel led the developer to withdraw its application in 2010. Since that time, the developer has returned to the Commission with a plan to switch the Ridgecrest project to a 100% solar photovoltaic ("PV") facility, which is a technology that clearly falls outside of the Commission's jurisdiction. The developer therefore submitted a request that "volunteered" itself for Commission jurisdiction. **The Commission must deny this request because, as explained in more detail below, the Commission does not have the statutory authority to allow a developer to request jurisdictional authority where none exists.**

I. THE ENERGY COMMISSION HAS NO LEGAL AUTHORITY TO CONSIDER A PROJECT OUTSIDE OF ITS JURISDICTIONAL AUTHORITY

Sierra Club agrees with Staff's conclusion that Section 25502.3 does not allow the developer of a non-thermal powerplant, as defined by the Warren-Alquist Act, to "opt-in" to the Commission's powerplant certification process.[1] The Warren-Alquist Act authorizes the Commission to exert extraordinary authority over the permitting of thermal powerplants that are greater than 50 MW. (Pub. Resources Code § 25500 *et seq.*) However, the limits of this extraordinary authority are clear. For purposes of the Warren-Alquist Act, a thermal powerplant does not include any wind, hydroelectric, or solar photovoltaic electrical generating facility. (Pub. Resources Code § 25120.) The Commission cannot enlarge its jurisdiction to include matters outside of this legislatively circumscribed sphere. (61 Ops.Cal.Atty.Gen. 127 (1978).) The Commission similarly cannot overstep its jurisdictional authority merely because a developer asks it to.

Sierra Club recently addressed a similar issue before this Commission related to the recently revised Calico Solar Project. (Docket No. 08-AFC-13C.) In that proceeding, a different applicant similarly argued that the Commission should expand the boundaries of its statutory authority to include a project that was originally proposed as a solar thermal facility, but which later switched to PV when faced with difficulties. The Calico developer argued that the Commission should exercise its exclusive powerplant certification jurisdiction over a 563 MW PV facility because it was proposed to be co-located with a 100.5 MW solar thermal facility. Commissioner Douglas and Chairman Weisenmiller issued a ruling on July 1, 2011 that squarely rejected that argument. The Calico committee expressly disclaimed jurisdiction over the PV component of the project, stating that, "the Energy Commission's certification jurisdiction is limited to the thermal powerplant and related facilities…"[2]

The Calico committee noted that the Legislature vested the Energy Commission with exclusive authority to certify a "facility," which the Legislature defined as any transmission line or thermal powerplant. (Pub. Resources Code Section 25110.) In turn, a "thermal powerplant" is any stationary or floating electrical generating facility using any source of thermal energy with a generating capacity of 50 MW or more, and any facilities appurtenant thereto. (Pub. Resources Code Section 25120.) The PV project proposed by the Ridgecrest developer is not a thermal powerplant because PV plants do not rely on thermal heat to generate electricity, but rather convert sunlight directly into current.

To the extent any doubt could have existed regarding the possible characterization of PV power as a thermal energy technology, the California Legislature expressly amended the Public Resources Code in 1988 to add the following clarifying language:

> "Thermal powerplant" **does not include any** wind, hydroelectric, **or solar photovoltaic** electrical generating facility.

---

[1] *Staff's Reply Brief*, July 5, 2011, Docket No. 09-AFC-9.

[2] *Committee Ruling on Sierra Club's Motion to Dismiss Calico Solar LLC's Petition to Amend*, July 1, 2011, Docket No. 08-AFC-13C, p. 7.

(Pub. Resources Code § 25120 (as amended by SB 928, Stats.1988, c. 965, § 1, eff. Sept. 19, 1988) (emphasis added).)

To argue, as the Ridgecrest developer does, that the Legislature intended to allow a PV facility to opt-in to Commission jurisdiction is to pervert the clear meaning of the language in the statute. The plain meaning of the Legislature's intent could not be more clear: the Commission's siting authority does not extend to solar photovoltaic facilities. California courts and the Attorney General's office have repeatedly rejected attempts by the Commission to expand its authority beyond the clear language of the Warren-Alquist Act. (*See, e.g.,* 61 Ops.Cal.Atty.Gen. 127 (1978) ("The Energy Commission's authority, **within its sphere of jurisdiction**, which is the certification of sites and related facilities for **thermal powerplants**, should be broadly interpreted…This does not mean that under the guise, of liberal statutory construction the Energy Commission's certification jurisdiction can be enlarged to include matter outside of this legislatively circumscribed sphere" (emphasis added).)

In *Department of Water & Power v. Energy Resources Conservation & Dev. Com.* (1991) 2 Cal.App.4th 206, the Court of Appeal upheld a preemptory writ ordering the Commission to cease its exercise of certification jurisdiction over a generation station repowering project. The Court held that the attempted expansion of the Commission's jurisdiction contravened the clear intentions of the Legislature. *Id.* at 222. Similarly in *Public Utilities Com. v. Energy Resources Conservation & Dev. Com.* (1984) 150 Cal.App.3d 437, the Court held that the plain language of the Warren-Alquist Act limited the Commission's jurisdiction over transmission lines after the point of interconnection. "In ascertaining the intent of the Legislature, the court must first look to the words of the statute." *Id.* at 444. So too in this case, the plain meaning of Section 25120 excludes solar PV facilities from Commission jurisdiction.

Section 25502.3 does not circumvent the clearly imposed legislative limits to the Commission's authority. Section 25502.3 provides: "any person proposing to construct **a facility** excluded from the provisions of this section may waive such exclusion…" (emphasis added). As discussed above, a solar PV project is not a facility because it is not a thermal powerplant. Therefore, the waiver provided by section 25502.3 does not apply to a solar PV project. In addition, solar PV projects are not "excluded" from the provisions of the Warren-Alquist Act because such a project never falls within the provisions of the Warren-Alquist Act.

The Ridgecrest developer asserts an argument that "facility" does not actually mean a facility as the term is defined in section 25110 and as the term is used throughout the Warren-Alquist Act. Instead, the Ridgecrest developer claims that section 25502.3 refers to a different colloquial definition of facility that is not otherwise defined by the statute. Continuing on, the developer encourages the Commission to simply ignore the statutorily defined definition of "facility" and instead apply a much broader definition that suits the developer's needs. In applying such logic, the developer of any project whatsoever, whether it is a solar project, a wind project, or a hotel that has nothing to do with electricity generation, could claim that it falls under this broad definition of facility and therefore opt-in to the Energy Commission's jurisdiction simply by requesting a waiver. In other words, under the developer's logic, any "facility" that is not a thermal powerplant would be a "facility excluded" and could therefore opt-in to Commission

jurisdiction. This absurd result cannot be what the California Legislature intended. In deciding this issue, the Commission should read the clear language of the statute, which expressly limits the Commission's certification jurisdiction to thermal powerplants over 50 MW.

II. THE PRACTICAL IMPACT OF GRANTING THE OPT-IN REQUEST WOULD BE TO ALLOW ANY RENEWABLE ENERGY DEVELOPER THE OPTION OF AVOIDING PERMITTING BY REGIONAL AND LOCAL AGENCIES, INCLUDING ALL LOCAL GOVERNMENT LAND USE AUTHORITIES.

In both the *Department of Water & Power* and *Public Utilities Commission* cases cited above, it is instructive to note that the opposing party was another government agency. Whether or not the Energy Commission has jurisdiction over a particular project is a determination that necessarily impacts other agencies. It is the Legislature's role to determine the boundaries of authority between various agencies.

The Energy Commission's authority, when properly exercised, is extraordinary because it supersedes all other state, local, and regional authority. (Pub. Resources Code Section 25500.) If the Energy Commission allows developers of non-thermal powerplants to opt-in to its exclusive permitting authority, it would at the same time deprive other agencies of their authority, particularly the authority of local governments to permit local land use decisions. In other words, if the Commission were to take jurisdiction over the Ridgecrest matter on the basis of Section 25502.3, there would be no limit to its ability to take jurisdiction over any other matter that was ostensibly a powerplant in the state of California. Kern County already objected to the Ridgecrest developer's request on similar grounds.

If the Commission attempted to expand its exclusive jurisdiction authority to non-thermal powerplants, it would take away from cities and counties the ability to control their own local land use decisions. Such a decision would inevitably lead to forum shopping where developers would simply choose the agency that it perceives would provide the most favorable outcome for its proposed development. Certain developers of controversial renewable energy projects have already expended considerable resources attempting to keep their proposed projects within the Commission's siting authority. The Calico project, discussed above, has vehemently argued at every juncture, both before this Commission and in Superior Court, that the Commission somehow has exclusive certification jurisdiction over its PV project. Now the Ridgecrest developer seeks to "volunteer" itself for Commission review of its newly revised PV project.

During the July 25, 2011 hearing on the Ridgecrest issue, Commission Boyd stated: "Up until today I would have thought people would go out of their way to avoid coming to the Energy Commission." (RT, July 25, 2011, p. 58.) While such aversion may have been true in the past, developers are now clamoring to fall within the Commission's jurisdiction. During the same hearing, Mr. Bob Therkelsen, a former Commission employee who now represents developers, provided some insight as to why things may have changed: "Those projects [in the 1980's] were deathly afraid of the Commission's process. Number one, it was still uncertain. It didn't **provide any**

guarantees at that time." (RT, July 25, 2011, p. 20.) While the Commission process may be, as Commissioner Boyde characterized it, "thorough and lengthy," today it provides more certainty to developers that they will get their proposed projects approved. Even more coveted, once the Energy Commission approves a project, that decision is virtually immune from any challenges under CEQA or any other state law because judicial review of Commission site certifications decisions is not allowed in California Superior Court or the Courts of Appeal. (*See* Pub. Resources Code Section 25531.) The Commission's siting process therefore allows developers to avoid perceived unfriendly local land use authorities, and it creates a license that is virtually immune from state court challenges. While this perception of the Energy Commission as the most favorable forum for controversial large-scale renewable energy projects may be unfair or unwarranted, it is nonetheless an increasing trend. The Commission should not condone or allow this type of forum shopping for non-thermal powerplants.

III. CONCLUSION

For the foregoing reasons, the Commission should deny the Ridgecrest developers request to opt-in to its powerplant certification program. The Commission does not have the authority to grant such a request because PV and other non-thermal power projects are outside of the Commission's statutory authority.

Dated: August 11, 2011

Respectfully submitted,

/s/ Gloria D. Smith
Gloria Smith
Sierra Club Environmental Law Program
85 Second Street, 2nd Floor
San Francisco, CA 94105
415-977-5532
gloria.smith@sierraclub.org

/s/ Travis Ritchie
Travis Ritchie
Sierra Club Environmental Law Program
85 Second Street, 2nd Floor
San Francisco, CA 94105
415-977-5727
travis.ritchie@sierraclub.org

cc:
Michael J. Levy
Office of Chief Counsel
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, CA 95814

Exhibit B

STATEMENT ON SB 928 BEFORE THE SENATE COMMITTEE ON ENERGY AND PUBLIC UTILITIES - May 5, 1987

The purpose of SB 928 is to clarify existing law relating to the California Energy Commission's jurisdiction over renewable energy resources. Currently, the Commission has authority to regulate development of thermal powerplants over 50 MW but not wind, solar or hydroelectric plants which are not thermal.

There has been concern that the Commission wants to expand its jurisdiction. Legislation introduced last year would have allowed the Commission to have authority over smaller power plants. Although this legislation was defeated, I feel that a clarification of existing law will help to send a signal that more regulation over renewable energy development is not needed.

The Energy Commission has informed me that its regulations currently state that these renewable energy resources are not defined as "thermal" powerplants; therefore, SB 928 simply codifies their current regulations. You may ask, then, why is SB 928 needed. It is needed because, as many of you know, regulations can always be changed. This is evident in the Commission's current regulatory proceedings regarding the definition of a "50 Megawatt" powerplant and whether development of several smaller sized plants which accumulatively total more than 50 Megawatts fall under the CEC's jurisdiction. Regulations are subject to interpretation. I want to ensure that the law is clear with regards to these renewable resources.

Government regulations can impose severe hardships on small companies. SB 928 will give assurances to businesses engaged in renewable energy development that the Legislature does not want to impose additional regulatory burdens on them. My Senate District contains numerous sources of renewable energy - wind farms in the Tehachapi, hydroelectric resources in the mountains and solar is being developed in the Carizza Plains and Mojave Desert. SB 928 stems from my support for the development of these industries.

Seawest Industries, a wind company in my district, is in support of SB 928 and there is no known opposition. I urge your aye vote and request that it be placed upon the consent calendar.

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION
For the *RIDGECREST SOLAR POWER PROJECT*

Docket No. 09-AFC-9

PROOF OF SERVICE
(Revised 8/15/2011)

APPLICANT

STA Development, LLC
Billy Owens
Senior Director,
Project Development
1111 Broadway, 5th Floor
Oakland, CA 94607
billy.owens@solartrustofamerica.com

STA Development, LLC
Alice Harron
Vice President,
Project Development
1111 Broadway, 5th Floor
Oakland, CA 94607
alice.harron@solartrustofamerica.com

CONSULTANT

AECOM
Elizabeth Copley, Project Manager
2101 Webster Street, Suite 1900
Oakland, CA 94612
elizabeth.copley@aecom.com

APPLICANT'S COUNSEL

Galati/Blek, LLP
Scott Galati
Marie Mills
455 Capitol Mall, Suite 350
Sacramento, CA 95814
sgalati@gb-llp.com
mmills@gb-llp.com

Paul, Hastings, Janofsky & Walker, LLP
Peter Weiner, Matthew Sanders
55 2nd Street, Suite 2400-3441
San Francisco, CA 94105
peterweiner@paulhastings.com
matthewsanders@paulhastings.com

STA Development, LLC
Jim Migliore, Associate
Environmental Management
1111 Broadway, 5th Floor
Oakland, CA 94607
E-mail preferred
jim.migliore@solartrustofamerica.com

INTERVENORS

Desert Tortoise Council
Sidney Silliman
1225 Adriana Way
Upland, CA 91784
gssilliman@csupomona.edu

California Unions for Reliable Energy (CURE)
Tanya A. Gulesserian
Elizabeth Klebaner
Marc D. Joseph
Adams, Broadwell, Joseph & Cardozo
601 Gateway Boulevard,
Suite 1000
South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com
eklebaner@adamsbroadwell.com

Basin and Range Watch
Laura Cunningham
Kevin Emmerich
P.O. Box 70
Beatty, NV 89003
bluerockiguana@hughes.net

Western Watersheds Project
Michael J. Connor, Ph.D.,
California Director
P.O. Box 2364
Reseda, CA 91337-2364
mjconnor@westernwatersheds.org

Kerncrest Audubon Society
Terri Middlemiss, Dan Burnett
P.O. Box 984
Ridgecrest, CA 93556
catbird4@earthlink.net
imdanburnett@verizon.net

Center for Biological Diversity
Ileene Anderson
Public Lands Desert Director
PMB 447
8033 Sunset Boulevard
Los Angeles, CA 90046
E-mail preferred
ianderson@biologicaldiversity.org

Center for Biological Diversity
Lisa Belenky
Senior Attorney
351 California Street, Suite 600
San Francisco, CA 94104-2404
E-mail preferred
lbelenky@biologicaldiversity.org

INTERESTED AGENCIES/ ENTITIES/PERSONS

California ISO
E-mail Preferred
e-recipient@caiso.com

U.S. Department of the Interior,
Bureau of Land Management
Janet Eubanks, Project Manager,
California Desert District
22835 Calle San Juan de los Lagos
Moreno Valley, California 92553
janet_Eubanks@ca.blm.gov

INTERESTED AGENCIES/ENTITIES PERSONS (Cont.)

Naval Air Warfare Center Weapons Division
Michael Owens, Energy Coordinator
1 Administration Circle
China Lake, CA 93555-6100
E-mail preferred
michael.t.owens@navy.mil

Naval Air Warfare Center Weapons Division
Michael Owens, Energy Coordinator
575 "I" Avenue, Suite 1
Point Mugu, CA 93042-5049
E-mail preferred
michael.t.owens@navy.mil

Naval Air Weapons Station, China Lake
CAPT Jeffrey Dodson, Commanding Officer
1 Administration Circle, Stop 1003
China Lake, CA 93555-6100
E-mail preferred
jeffrey.dodson@navy.mil

Naval Air Weapons Station, China Lake
Tim Fox
Community Plans & Liaison Officer
429 E Bowen Rd, Stop 4003
China Lake, CA 93555-6100
E-mail preferred
timothy.h.fox@navy.mil

ENERGY COMMISSION DECISION MAKERS

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

Kourtney Vaccaro
Hearing Officer
kvaccaro@energy.state.ca.us

Tim Olson
Adviser to Commissioner Boyd
tolson@energy.state.ca.us

ENERGY COMMISSION STAFF

Jared Babula
Staff Counsel
jbabula@energy.state.ca.us

Eric Solorio
Project Manager
esolorio@energy.state.ca.us

ENERGY COMMISSION – PUBLIC ADVISER

Jennifer Jennings
Public Adviser
E-mail preferred
publicadviser@energy.state.ca.us

SIERRA CLUB
RESPONSE TO
COMMISSION ORDER
WITHDRAWING
APPLICANT'S MOTION
REGARDING
JURISDICTION

DECLARATION OF SERVICE

I, Jeff Speir, declare that on, Sept. 16, I served and filed copies of the attached WAIVER, dated Sept. 16. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[www.energy.ca.gov/sitingcases/solar_millennium_ridgecrest/index.html**

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(*Check all that Apply*)

For service to all other parties:

X Served electronically to all e-mail addresses on the Proof of Service list;

X Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

X by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); ***OR***

____ by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 09-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

____ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

/s/ Jeff Speir